

Panaji, 27th April, 2023 (Vaisakha 7, 1945)

SERIES II No. 4

OFFICIAL GOVERNMENT OF GOA GAZETTE

PUBLISHED BY AUTHORITY

GOVERNMENT OF GOA

Department of Co-operation
Office of the Registrar of Co-operative Societies

Order

No. 19-17-94/TS/RCS(Part V)/243

Read: Order No. 19-17-94/TS/RCS(Part V)/225 dated 21-04-2023 issued by RCS.

[Under Section 67A of the Goa Co-operative Societies Act, 2001 (Goa Act No. 36 of 2001)]

Whereas, The Goa State Co-operative Milk Producer's Union Ltd. [registered under code symbol No. PRD(c)-99/Goa], Curti, Ponda, Goa (hereinafter referred to as "the said society" or as "Goa Dairy") is a registered Co-operative Society which was registered under the erstwhile the Maharashtra Co-operative Societies Act, 1960 made applicable to the State of Goa and is now deemed to be a Society registered under the Goa State Co-operative Societies Act, 2001 (Goa Act No. 36 of 2001) (hereafter referred to as "Act") from the date of coming into force of the Act.

And whereas, as per the bye laws of Goa Dairy, the Supreme authority of the Society is vested in the General Body Meeting, subject to the Act, the Rules and the Bye-laws. The Board of Directors (BoD) of the Goa Dairy consists of 15 Directors out of which 12 are directly elected, one is nominated by RCS, one nominated by NDDB and the Managing Director of the Society is ex-officio Director and the Member Secretary.

And whereas, the last election was held to constitute Board of Directors of Goa Dairy for tenure 2022-2027 and the result of election was declared in Form ELECTION 17 dated 20-06-2022 whereby the following 12 Directors were elected.

Sr. No.	Name of the Director	Primary Dairy Society represented	Residential Address
1	2	3	4
1.	Shri Sinari Ulhas Pandurang	Janata Utkarsh Sahakari Dudh Vyavasayik Society Ltd., Amona, Marcela, Goa	H. No. 209, Meshwada, Amona, Bicholim, Goa.
2.	Shri Faldessai Rajesh Krishna	Somnath Sahakari Dugdh Utpadak Vyavsayik Saunstha Maryadit, Adnem, Quepem, Goa	H. No. 275, Deulwada, Balli, Quepem, Goa.
3.	Shri Dessai Vithoba Datta	Shantadurga Sahakari Dudh Vyavasaik Saunstha Ltd., Cuncolim Bazar, Cuncolim, Salcete, Goa	H. No. 10, Bhiunsa, Cuncolim, Salcete, Goa.
4.	Shri Gaonkar Vijaykant Vithoba	Shree Mahamaya Dudh Utpadak Sahakari Saunstha Maryadit, Jackem, Netravalim, Sanguem, Goa	H. No. 136, Jakem, Netravalim, Sanguem, Goa.

1	2	3	4
5.	Shri Parab Gurudas Keshav	Menkurem Dudh Utpadak Sahakari Saunstha Maryadit, Menkurem, Bicholim, Goa	H. No. 140, Varcha Wada, Menkurem, Bicholim, Goa.
6.	Shri Sahakari Madhav Atmaram	Kapila Sahakari Dudh Utpadak Vyavasayik Saunstha Maryadit, Curti, Ponda, Goa	H. No. 47/1, Mesta Wada, Curti, Ponda, Goa.
7.	Shri Dessai Baburao Shrikant Fatto	Kakoda Sahakari Dudh Utpadak Vyavasayik Saunstha Maryadit, Bansai, Kakoda, Goa	H. No. 50, Bansai, Kakoda, Curchorem, Goa.
8.	Shri Prabhu Uday Anand	Somnath Mahalaxmi Sahakari Dudh Utpadak Saunstha Maryadit, Kodar, Ponda, Goa	H. No. 105, Gudamol-Kodar, Near Government Agriculture Farm, Khandepar, Ponda, Goa-403406.
9.	Shri Prabhugaonkar Nitin Vishwanath	Tribhuvan Sahakari Dudh Vyavasayik Saunstha Maryadit, Mardol, Goa	H. No. 183, Gaonkarwada, Velinga, Priol, Ponda, Goa-403404.
10.	Shri Falo Babu Deu	Shree Paravdeshwar Dudh Utpadak Sahakari Saunstha Maryadit, Keri, Sattari, Goa	Ghoteli No.-02, Querim, Sattari, Goa-403505.
11.	Shri Desai Anup Kalidas	Priol Gosavardhan Sahakari Dudh Vyavasayik Saunstha Maryadit, Priol, Goa	Apewal, Priol, Ponda, Goa 403404.
12.	Shri Naik Shrikant Pandurang	Pragati Sahakari Dudh Utpadak Saunstha Maryadit, Kapileshwari, Kavale, Ponda, Goa	Galshirem Kavalem, Ponda, Goa-403401.

The elections to the Office bearers of the Goa Dairy were held on 18-07-2022 and Shri Faldessai Rajesh Krishna was elected as Chairman.

Subsequently, the Managing Director of Goa Dairy vide copies of letters dated 20-02-2023 marked to Registrar has informed that 2 Directors namely Shri Madhav Atmaram Sahakari and Shri Anup K. Desai had submitted their resignations from the post of Directors on 03-02-2023 which were accepted on 15-02-2023. Thus, the 2 posts of Directors have fallen vacant with effect from 15-02-2023 reducing the number of Directors to 10.

And whereas, vide Order dated 21-04-2023 referred above, the following persons who were holding the post of Director of Goa Dairy have been disqualified u/s. 59(11) of the Goa Co-operative Societies Act, 2001.

- 1) Shri Sinari Ulhas Pandurang.
- 2) Shri Faldessai Rajesh Krishna.
- 3) Shri Dessai Vithoba Datta.
- 4) Shri Gaonkar Vijaykant Vithoba.
- 5) Shri Parab Gurudas Keshav.
- 6) Shri Dessai Baburao Shrikant Fatto.

And whereas, Shri Sahakari Madhav Atmaram who was holding the post of Director but have vacated the same by resignation has also been disqualified vide said Order along with several other ex-Directors of Goa Dairy.

In consequence of above developments of two resignations and six disqualifications, presently out of 12 elected Directors on Board of Directors of Goa Dairy, only 4 Directors namely Shri Prabhu Uday Anand, Shri Prabhugaonkar Nitin Vishwanath, Shri Falo Babu Deu and Shri Naik Shrikant Pandurang are left as Directors on the Board of Directors.

And whereas, as per bye-law No. 19.12 of Goa Dairy, presence of more than 50% of the Board members forms the quorum for the Board meetings. Therefore, at all times a minimum of 7 elected Directors are required for functioning of the Board in accordance with bye-laws of Goa Dairy.

All the powers, functions and responsibilities are vested in the Board as per bye-law No. 21 of Goa Dairy. Therefore due to above facts, the Goa Dairy is rendered without any effective Board of Directors because the BoD can take decisions only through its meetings by adopting resolutions passed by majority of Directors present and voting. But, for holding any meeting of BoD, 7 or more Directors are required to be present to form the quorum. Due to this situation and since Shri Rajesh K. Faldessai, Chairman is also disqualified from the post of Director, the Goa Dairy is left without any Chairman and without any BoD capable of functioning in accordance with its Bye-laws.

In view of above situation where majority of posts of Directors on BoD are vacant due to resignations and disqualifications, it is felt necessary to provide an alternative for management of affairs of Goa Dairy by invoking provisions of Section 67A of the Goa Co-operative Societies Act, 2001.

The Goa Dairy is running a milk dairy plant located at Curti, Ponda, Goa and another plant at Usgao where cattle feed is manufactured which is supplied to its members/dairy farmers through affiliated primary dairy co-operative societies. Thus for running both these plants, the decision making has to happen by the authorities of Chairman as well as the Board of Directors. The business carried on by Goa Dairy is most important since it is for ensuring regular supply of milk packets in the market for consumption of population as well as supplying cattle feed for survival of animals owned by the dairy farmers. It is essential in the interest of Goa Dairy as well as its member dairy farmers and in public interest to ensure smooth supply of daily milk to population of the State, it is essential to invoke powers u/s. 67A of the Act to supersede the existing defunct Board of Directors and appoint a Committee of Administrators (CoA) to manage the affairs of the Society till the fresh elections are held and new Board of Directors enters upon office.

Taking into consideration the stalemate that is existing and the vacuum created in the management/administration of Society, I am satisfied that immediate action is required to be taken and that it is not reasonably practicable to publish notice in accordance with proviso to Section 67A of the Act inviting objections and suggestions to the proposed order and to pass the Order after considering all objections and suggestions that may be received. If such notice is published and even minimum 7 days are provided, it may lead to serious adverse effect on smooth functioning of both Dairy and cattle feed plants.

Now, therefore, in view of above facts and the above recorded reasons and in exercise of the powers vested in me under Section 67A of the Goa Co-operative Societies Act, 2001, I, the undersigned Registrar of Co-operative Societies, Goa do hereby supersede the existing minority/defunct Board of Directors of the Goa State Co-operative Milk Producer's Union Ltd., Curti, Ponda, Goa and hereby appoint the following Committee of Administrators (CoA) to manage the affairs of the Society till the fresh elections are held and new Board of Directors enters upon office.

- 1) Shri Parag M. Nagarcenkar, Officer of Goa Civil Service, Government of Goa presently posted as SLAO, GIDC-Chairman.
- 2) Dr. Rama G. Parab, Veterinary Officer, Directorate of Animal Husbandry & Veterinary Services, Government of Goa-Member.
- 3) Shri Sandeep Ramnath Parab/Parsekar, Accountant, Directorate of Accounts, Government of Goa-Member.

The term of the above Committee of Administrator shall be for initial period of six months from the date of issue of this Order. The aforesaid committee shall immediately take over the complete charge of the assets, books and records of the said Society by preparing an inventory/charge transfer Certificate. The Committee of administrators shall take immediate steps to hold fresh elections in accordance with provisions of Act, Rules and Bye-laws.

Given under the seal of this office.

Vishant S. N. Gaunekar, Registrar (Co-operative Societies) & ex officio Joint Secretary (Co-operation).
Panaji, 21st April, 2023.

Order

No. 3/25/Urban credit/TSII/NZ/2020/RCS/268

- Read: 1. Order No. 48-8-2001-TS-RCS/III/311 dated 21-04-2017.
2. Circular No. 6-13-81/EST/RCS/Part V/ /5833 dated 06-03-2020.
3. Letter No. ARCS/NZ/PLN/Registrars Nominee/24 dated 04-04-2023.

Whereas, vide Order read at Sr. No. 1 above, Adv. Shivaji B. Sinai Bhangui, having office at above Bank of Maharashtra, 2nd floor, SF-8, Goa Housing Board Commercial & Residential Complex, Journalist Colony, Alto Betim, Porvorim, Goa was appointed as Registrar's Nominee under Section 86(1) of the Goa Co-operative Societies Act, 2001 (Goa Act No. 36 of 2001) read with Rule 116(1) of the Goa Co-operative Societies Rules, 2003 and his name is reflecting at Sr. No. 24 of the said Order.

And whereas, The Emmanuel Urban Co-operative Credit Society Ltd., office No. 4, Ravindra Tower, Behind Maruti Temple, Ansabhat, Mapusa, Bardez, Goa [Reg. No. RES(a)-49/NZ/GOA/04] vide their letter read at Sr. No. 3 above have requested to designate Adv. Shivaji B. Sinai Bhangui as their dedicated nominee to directly receive and adjudicate disputes referred by The Emmanuel Urban Co-operative Credit Society Ltd. without routing through this office.

Now therefore, in exercise of the powers conferred under Section 123(B) of the Goa Co-operative Societies Act, 2001 read with Rule 116 of the Goa Co-operative Societies Rules, 2003, I, the undersigned Registrar of Co-operative Societies do hereby authorize Adv. Shivaji B. Sinai Bhangui, having office at above Bank of Maharashtra, 2nd floor, SF-8, Goa Housing Board Commercial & Residential Complex, Journalist Colony, Alto Betim, Porvorim, Goa as a dedicated RCS Nominee for The Emmanuel Urban Co-operative Credit Society Ltd., office No. 4, Ravindra Tower, Behind Maruti Temple, Ansabhat, Mapusa, Bardez, Goa [Reg. No. RES(a)-49/NZ/GOA/04] for a period of one year with effect from 01-05-2023 to 30-04-2024.

When a purported dispute is referred by said Society, the above named dedicated Nominee is authorized to first decide under sub-section (1) of Section 86 of the Goa Co-operative Societies Act, 2001 whether the matter referred by Society involves a dispute and pass appropriate Orders under sub-section (1) of Section 86 of the Act.

Only upon the Nominee satisfying that there exists a dispute, he shall proceed to adjudicate the same and give Award accordingly. The nominee shall abide

by the terms and conditions on which he was originally appointed as Registrar's nominee vide Order read at Sr. No. 1 above.

This authorization shall be valid for one year with effect from 01-05-2023 to 30-04-2024 unless renewed and is subject to withdrawal/being revoked at any stage at the discretion of undersigned without assigning any reasons.

Given under the seal of this office.

Vishant S. N. Gaunekar, Registrar (Co-operative Societies) & ex officio Joint Secretary (Co-operation).

Panaji, 24th April, 2023.

Office of the Asstt. Registrar of Co-operative Societies

No. 5/350/ARPZ/18-19/HSG/Reg/194

- Read: 1. Certificate of Registration dated 30-11-2018 of Raj Aguiar Enclave Co-operative Housing Society Ltd., Near Old Military Camp, Dhavli, Ponda-Goa.

Consequent upon the change in name vide amendment to bye-laws No. 1 to 138, the Certificate of Registration of "Raj Aguiar Enclave Co-operative Housing Society Ltd., Near Old Military Camp, Dhavli, Ponda-Goa is amended as under:-

Amended Certificate of Registration

In exercise of the powers vested in me in terms of Section 11 of the Goa Co-operative Societies Act, 2001, read with Rule 10 of Goa Co-operative Societies Rules, 2003, the Certificate of Registration dated 30-11-2018 bearing code symbol No. ARCS/ /PZ/HSG/54/7(b)/Goa/798 stands amended with immediate effect and shall read for all purposes as follows:-

The name of the society appearing in the Registration Certificate referred to at Sr. No. 1 above be read as "Raj Aguiar Enclave Co-operative Housing Maintenance Society Ltd.", Dhavli, Ponda-Goa.

Pankaj V. Marathe, Asstt. Registrar (Co-op. Societies), Ponda Zone.

Ponda, 17th April, 2023.

Notification

In exercise of the powers vested in me under Section 8 of the Goa Co-operative Societies Act, 2001, "Royal Classic Co-operative Housing

Maintenance Society Ltd., Near Vithoba Temple, Upper Bazar, Ponda"-Goa is registered under code symbol No. RCSPZ2023240026.

Pankaj V. Marathe, Asst. Registrar (Co-operative Societies), Ponda Zone.

Ponda, 6th April, 2023.

Certificate of Registration

"Royal Classic Co-operative Housing Maintenance Society Ltd., Near Vithoba Temple, Upper Bazar, Ponda"-Goa has been registered on 06-04-2023 and its bears registration Code symbol No. RCSPZ2023240026 and its classified as "Co-operative Housing Society" under sub-classification "No. 7-(d)-Co-operative Housing Maintenance Society" in terms of Rule 8 of the Goa Co-operative Societies Rules, 2003.

Pankaj V. Marathe, Asst. Registrar (Co-operative Societies), Ponda Zone.

Ponda, 6th April, 2023.

Notification

In exercise of the powers vested in me under Section 8 of the Goa Co-operative Societies Act, 2001, "Bella Casa Co-op. Hsg. Maintenance Scty. Ltd., C-201, C/o Aarshi Singh, Siolim"-Goa is registered under code symbol No. RCSNZ2022-230032.

Harish S. Naik, Asstt. Registrar (Co-operative Societies), North Zone.

Mapusa, 8th March, 2023.

Certificate of Registration

"Bella Casa Co-op. Hsg. Maintenance Scty. Ltd., C-201, C/o Aarshi Singh, Siolim"-Goa has been registered on 08-03-2023 and it bears registration code symbol No. RCSNZ2022-230032 and its classified as "Co-operative Housing Society" under sub-classification "No. 7-(d)-Co-operative Housing Maintenance Society" in terms of Rule 8 of the Goa Co-operative Societies Rules, 2003.

Harish S. Naik, Asstt. Registrar (Co-operative Societies), North Zone.

Mapusa, 8th March, 2023.

Department of General Administration

Notification

No. 25/4/95-GA&C/656

Shri Parkash Singh Badal, Former Chief Minister of Punjab has passed away on 25th April, 2023.

As a mark of respect to the departed dignitary and as decided by the Government of India, there will be two (02) days State Mourning from 26-04-2023 to 27-04-2023 throughout the State.

On the days of Mourning, the National Flag will be flown at half mast throughout the State on all buildings where the National Flag is flown regularly and there will be no official entertainment during the above mentioned days.

By order and in the name of the Governor of Goa.

Shreyas Dsilva, Under Secretary (GA-II).

Porvorim, 26th April, 2023.

Department of Home

Home—General Division

Office of the Director General of Police

Order

No. CA-II/134/LOP&C/GPSC/3405/2023

On the recommendation of the Goa Public Service Commission conveyed vide letter No. COM/II/12/37(1)/2022/465 dated 27-01-2023 and approved by Government of Goa conveyed vide letter No. 1/2/2022-HD(G)/FSL/642 dated 24-02-2023 by the Department of Home (General), Government of Goa, Secretariat, Porvorim-Goa, the Competent Authority found the below mentioned Officers fit for lifting of probation period and confirmation in the post of 'Scientific Assistant' in Goa Police Department with effect from the date of completion of their probation period as under:-

Sr. No.	Name of the Scientific Assistant	Posting	Date of completion of probation period
1	2	3	4
1.	Shri Arjun B. Korgaunkar @ Korgaonkar	FSL Verna	02-07-2019.
2.	Shri Kulbhooshan Arun Kumar Gupta	FSL Verna	24-10-2019.
3.	Smt. Shraddha P Malvankar	FSL Verna	02-10-2018.
4.	Shri Atish D. Fatarpekar	FSL Verna	12-09-2019.
5.	Shri Jagdhish @ Jagdish M. Naik	FSL Verna	14-03-2020.

By order and in the name of the Governor of Goa.

Bossuet Silva, Superintendent of Police (HQ).

Panaji, 29th March, 2023.

Department of Labour

Order

No. 28/09/2023-LAB/264

Whereas, the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Netzsch Technologies India Private Limited, L-10, Verna Industrial Estate, Verna, Goa and it's workmen represented by the Bhartiya Kamgar Sena, in respect of the matter specified in the Schedule hereto;

And whereas, the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa hereby refers the said dispute for adjudication to the Industrial Tribunal of Goa at Panaji-Goa, constituted under Section 7A of the said Act.

SCHEDULE

- (1) Whether the action of the management of M/s. Netzsch Technologies India Private Limited, L-10, Verna Industrial Estate, Verna, Goa in awarding punishment to S/Shri Sachin Tapse, Technician, Babu Bodekar, Technician and Shivaji Gawde, Technician for suspending from work for one day without wages i.e. on 29-03-2022, 08-04-2022 & 07-04-2022 respectively for not attending safety day programme which was scheduled on 16-03-2022, is legal and justified?

- (2) If not, to what relief the workmen are entitled?

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).

Porvorim, 18th April, 2023.

Order

No. 28/08/2023-LAB/265

Whereas, the Government of Goa is of the opinion that an industrial dispute exists between the management of M/s. Dalgado Konkani Akademi, Old Education Dept. Bldg., 2nd Floor, 18th June Road, Panaji, Goa and it's workman, Shri Augustine Coelho, Lower Division Clerk, in respect of the matter specified in the Schedule hereto;

And whereas, the Government of Goa considers it expedient to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa hereby refers the said dispute for adjudication to the Labour Court-II of Goa at Panaji-Goa, constituted under sub-section (1) of Section 7 of the said Act.

SCHEDULE

- (1) Whether the action of the management of M/s. Dalgado Konkani Akademi, Old Education Dept. Bldg., 2nd Floor, 18th June Road, Panaji, Goa, in terminating the services

of Shri Augustine Coelho, Lower Division Clerk, with effect from 01-05-2020, is legal and justified?

(2) If not, to what relief the workman is entitled?

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).

Porvorim, 18th April, 2023.

Notification

No. 28/02/2023-LAB/169

The following Award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 14-02-2023 in Ref. No. IT/49/1999 is hereby published as required under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).

Porvorim, 3rd March, 2023.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Anil Scaria, Hon'ble Presiding Officer)

Ref. No. IT/49/1999

Shri Suresh Naik (since deceased),
Rep. by the Legal Heirs

1. Smt. Mira Suresh Naik,
2. Shri Sujay Suresh Naik,
3. Miss Sneha Suresh Naik,
All r/o. Saidham,
Dhavlimal, Ponda-Goa

.... Workman/Party-I.

V/s

M/s. MRF Ltd.,
Usgao,
Ponda-Goa

.... Employer/Party-II.

Workmen/Party I represented by Learned Adv. Ms. S. Narvekar.

Employer/Party II represented by Learned Advocate Shri A. Sawant holding for Adv. S. B. Karpe.

AWARD

(Delivered on this the 14th day of the month of February of the year 2023)

By Order dated 30-04-1999, bearing No. IRM/CON/P/(236)/1998/2334, the Government of Goa in

exercise of powers conferred by Section 10(1)(d) of the Industrial Disputes Act, 1947 (for short 'The Act'), has referred the following dispute to this Tribunal for adjudication:-

"(1) Whether the action of the management of M/s MRF Ltd., Usgao-Goa in terminating the services of Shri Suresh Naik with effect from 19-03-1997 is legal and justified?"

(2) If not, to what relief the workman is entitled?"

2. The Party I/Workman has filed his Statement of Claim. Thereafter, the Party I/Workman amended the Statement of Claim.

3. The case of the Party I is that Suresh Naik (Workman) was an active member of Goa MRF Employees Union. That in order to victimize and harass the Workman, Party II (Employer) issued a charge-sheet to him by a letter dated 27-12-1997. That, the Charge-sheet was not signed by an authorized person. That, thereafter, Party II (Employer) conducted a quick inquiry. That in the enquiry the workman was not allowed to be represented by a person of his choice. That the Workman was not given an opportunity to lead evidence in defence. That the copy of the findings of the Enquiry Officer were not supplied to the workman. That, he was not given an opportunity to show-cause against the action proposed to be taken against him. That by letter dated 19-03-1997 the services of the workmen were terminated. That the past conduct of the workman was not taken into consideration before terminating the services of the workman. That, the termination of the workman is unfair labour practice.

4. That conciliation proceedings were going on with respect to Charter of Demands by the workmen. That Party II has not applied for approval of termination of service under Section 33 of the Industrial Disputes Act, 1947. Therefore, it is prayed that this Tribunal be pleased to hold that the termination of the workman is illegal, improper, bad in law, malafide and unjustified. That it be held that the termination of the workman is victimization and unfair labour practice. That the Employer be directed to reinstate the workman with full back wages and continuity of service. That the workman be given two days wages for every one day of enforced unemployment in view of the mental torture caused to the workman and his family.

5. The Party II/Employer has filed its Written Statement and additional Written Statement. The Party II/Employer states that the workman was charge-sheeted by Charge-sheet dated 27-02-1997 wherein it was alleged as under:-

“Despite several warnings, Charge-sheet and consequent suspensions by way of punishment for unauthorized absence, it is observed from your attendance record that you are still in the habit of remaining absent from duty without leave or intimation as detailed below:-

September '96—5, 7, 13, 18, 20, 21 (6 days)

October '96—7, 10, 11, 12, 14, 15, 18, 19, 20 (9 days)

November '96—1, 2, 7, 13 to 16, 28, 29, 30 (10 days)

December '96—2, 3, 9 to 23, 31 (20 days)

Your absence, therefore, as above is unauthorized and amounts to gross misconduct under Items XXV and LII of Clause 21 of the Certified Standing Orders of the Company which read as under:

CI: 21 Item XXV: Habitual absence without leave, or absence without leave of more than 8 consecutive days or overstaying the sanctioned leave without satisfactory explanation.

CL. 21 Item LII: Any act subversive of discipline and with which you are charged.”

6. That the Workman had requested the Enquiry Officer to be defended by Mr. Dhauji Netraval. That Mr. Dhauji Netraval was not a co-worker of Party I (Workman). That there were specific provisions in the Certified Standing Orders which provided for only the assistance of a co-worker in a domestic enquiry. That, the Enquiry Officer therefore declined the request of the workman. That, thereafter the workman requested to be represented by his co-worker, namely Mr. Rohidas Naik. That the request was granted. That both Parties adduced evidence. That by findings dated 15-03-1997, the Enquiry Officer held the workman guilty of the charges leveled against him. That the enquiry was fair and proper and was conducted in accordance with the principles of natural justice. That Party II (Employer) concurred with the findings of the Enquiry Officer. Party II (Employer) considered the past record of the workman. That considering the magnitude of the misconduct, the workman (Party I) was dismissed from service.

7. It is denied that the non-issuance of a Show Cause Notice before dismissal has prejudiced the workman. It is denied that the dismissal of the workman amounts to victimization and unfair labour practice. That Party II has not violated the provisions of Section 33 of the Industrial Disputes Act, 1947. That Goa MRF Employees Union is represented by a Committee headed by its President Mr. Savio Furtado. That Rohidas Naik is not the President of the Goa MRF Employees Union and that he cannot represent the workman or sign the pleadings. Therefore, it is prayed that the claim of the Party I be disallowed.

8. Party I (Workman) has filed his Rejoinder to the Written Statement and another Rejoinder to the additional Written Statement. The workman (Party I) states that he allowed Rohidas Naik to represent him not out of choice but out of compulsion. That Party II (Employer) had illegally disallowed Dhauji Netraval from representing him although he was an office bearer of the Union. That Mr. Rohidas Naik was the President of the Goa MRF Employees Union at the time when all the pleadings were signed. That Shri Rohidas Naik was and is authorized to verify all the pleadings on behalf of the Goa MRF Employees Union. That he has the locus standi to represent the Goa MRF Employees Union. It is denied that the Goa MRF Employees Union is represented by a different Committee headed by its President Mr. Savio Furtado.

8. The following issues and additional issues were framed by this Tribunal:

ISSUES

1. Whether the Party I proves that the domestic enquiry held against him is not fair and proper?
2. Whether the charges of misconduct leveled against the Party I are proved to the satisfaction of the Tribunal by acceptable evidence?
3. Whether the Party I proves that termination of his services by the Party II is by way of victimization and unfair labour practice?
4. Whether the Party I proves that the action of the Party II in terminating his services from 19-03-1997 is illegal and unjustified?
5. Whether the Party I is entitled to any relief?
6. What Award?

ADDITIONAL ISSUE

- 5A. Whether the Party II has followed the mandatory provisions of Sec. 33(2)(a)(b) of the Industrial Disputes Act before dismissing the workman from the service?

9. That on 05-06-2009, the workman (Shri Suresh Naik) expired leaving behind his wife Smt. Mira Suresh Naik and his two children namely Sujay Suresh Naik and Miss Sneha Suresh Naik as his universal heirs. The cause title has been amended and the heirs have been brought on record.

10. During the course of proceedings, the Parties filed Consent terms (Exh. 71 Colly).

11. The consent terms are as follows:-

“I. The present dispute was referred by the Government of Goa for adjudication to the

Industrial Tribunal in exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Dispute Act, 1947 as the Applicant Shri Suresh Naik had challenged his order of dismissal dated 19-03-1997 by the Opponent.

- II. During the pendency of the said proceedings, said Shri Suresh Naik expired on 05-06-2009 and upon his demise, his wife Smt. Mira Suresh Naik and his two children Mr. Sujay Suresh Naik and Miss Sneha Suresh Naik who are Applicant's sole and universal heirs came to have been added as Parties to the present proceedings.
- III. Considering the fact, that the original Applicant Shri Suresh Naik is no more living, the widow of the Applicant i.e. said Smt. Mira Suresh Naik and her above children approached the Opponent and have sorted out the matter amicably and in settlement of the claims and disputes between the Parties, the Applicants have agreed that subject to payment of lump sum amount of Rs. 3,71,828/- (Rupees Three lakhs seventy one thousand eight hundred twenty eight only) which includes legal dues Rs. 3,913/- (Rupees Three thousand nine hundred thirteen only), settlement arrears/Dues (October 1995–September, 2002) Rs. 17,915/- (Rupees Seventeen thousand nine hundred fifteen only) and the Company Settlement offer of Rs. 3,50,000/- (Rupees Three lakhs fifty thousand only) to be paid by the Opponent to the Applicants. The Applicants agree and declare that they shall have no claim of whatsoever nature, notwithstanding any other issues pending between the Applicants Company/Management and various Trade Unions.
- IV. The Opponent after having resolved to settle the disputes with the Applicant agreed to pay an amount of Rs. 3,71,828/- (Rupees Three lakhs seventy one thousand eight hundred twenty eight only) as full and final settlement of all the claims of the Applicant in terms of settlement arrived between the Parties. The Opponent has hereby issued a cheque bearing No. 039094 dated 30-01-2023 drawn on HDFC Bank, Ponda branch in favour of Smt. Mira Suresh Naik for sum of Rs. 3,71,828/- (Rupees Three lakhs seventy one thousand eight hundred twenty eight only) as full and final settlement of all the claims and disputes of the Opponent in the present matter.
- V. The Applicants hereby acknowledge having received the said sum of Rs. 3,71,828/- (Rupees Three lakhs seventy one thousand eight hundred twenty eight only) from the Party II and

declare that the Party I has no claim of whatsoever nature against the Party II as all their legal dues including Gratuity have already been settled and further declare and acknowledge that the termination effected of the late Mr. Suresh Naik by the Party II vide Order of Dismissal dated 19-03-1997 is perfectly legal and valid.

- VI. The Applicants state that they have no further interest or claim of whatsoever nature against the Party II in Reference No. IT/33/97, WP/592/2017, WP/805/2018, CP/2/2016, LCC/29/96, LCC/40/98, IT/17/2004, WP/2307/2021, IT/06/2007, IT/61/2002, IT/09/2010, IT/22/2012, WP/172/2017 and other similar matters pending before various Courts in Goa as well as in any other States in India filed by the Union against the Party II Company of which Union the late Shri Suresh Naik claims to be the member and in any other matter filed by any other Union against the Opponent Company.
- VII. The Applicant further states that they are the sole surviving legal heirs of late Shri Suresh Naik and undertakes to indemnify the Opponent in case any claim/dispute is raised by any other person against the Opponent claiming to be the legal Heir of late Shri Suresh Naik in view of matter of settlement arrived at between the Applicant and the Opponent as per the present terms of settlement agreed and signed.
- VIII. Either of the Parties declare that they have no claim of whatsoever nature against each other."

12. The Consent Terms have been signed by Smt. Mira Suresh Naik, Shri Sujay Suresh Naik and Miss Sneha Suresh Naik. They are the moiety holder and heirs of the deceased workman. The Consent Terms have also been signed by Mr. Krishna Warriar (Chief of Human Resources of the Opponent) and Shri Abhishek P Sawant (Advocate for the Opponent).

13. I have gone through the records of the case and the Memorandum of Consent Terms. I am convinced that the Consent Terms filed by the Parties are just and fair and are in the interest of the heirs of the Workman/Party I and the Employer/Party II. Therefore the same are accepted.

Hence, I pass the following Order:-

ORDER

(i) The reference in IT/49/1999 stands awarded as per Consent Terms filed by both the Parties at Exhibit 71 Colly.

The Consent Terms are as hereunder:-

"I. The present dispute was referred by the Government of Goa for adjudication to the

Industrial Tribunal in exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Dispute Act, 1947 as the Applicant Shri Suresh Naik had challenged his order of dismissal dated 19-03-1997 by the Opponent.

II. During the pendency of the said proceedings, said Shri Suresh Naik expired on 05-06-2009 and upon his demise, his wife Smt. Mira Suresh Naik and his two children Mr. Sujay Suresh Naik and Miss Sneha Suresh Naik who are Applicant's sole and universal heirs came to have been added as Parties to the present proceedings.

III. Considering the fact, that the original Applicant Shri Suresh Naik is no more living, the widow of the Applicant i.e. said Smt. Mira Suresh Naik and her above children approached the Party II and have sorted out the matter amicably and in settlement of the claims and disputes between the Parties, the Party I have agreed that subject to payment of lump sum amount of Rs. 3,71,828/- (Rupees Three lakhs seventy one thousand eight hundred twenty eight only) which includes legal dues Rs. 3,913/- (Rupees Three thousand nine hundred thirteen only), settlement arrears/Dues (October 1995 – September, 2002) Rs. 17,915/- (Rupees Seventeen thousand nine hundred fifteen only) and the Company Settlement offer of Rs. 3,50,000/- (Rupees Three lakhs fifty thousand only) to be paid by the Party II to the Party I. The Party I agree and declare that they shall have no claim of whatsoever nature, notwithstanding any other issues pending between the Company/Management and various Trade Unions.

IV. The Opponent after having resolved settle the disputes with the Applicant agreed to pay an amount of Rs. 3,71,828/- (Rupees Three lakhs seventy one thousand eight hundred twenty eight only) as full and final settlement of all the claims of the Party I in terms of settlement arrived between the Parties. The Party II has hereby issued a cheque bearing No. 039094 dated 30-01-2023 drawn on HDFC Bank, Ponda branch in favour of Smt. Mira Suresh Naik for sum of Rs. 3,71,828/- (Rupees Three lakhs seventy one thousand eight hundred twenty eight only) as full and final settlement of all the claims and disputes of the Party II in the present matter.

V. The Applicants hereby acknowledge having received the said sum of Rs. 3,71,828/- (Rupees

Three lakhs seventy one thousand eight hundred twenty eight only) from the Party II and declare that the Applicants have no claim of whatsoever nature against the Party II as all their legal dues including Gratuity have already been settled and further declare and acknowledge that the termination effected of the late Mr. Suresh Naik by the Opponent vide Order of Dismissal dated 19-03-1997 is perfectly legal and valid.

VI. The Applicants state that they have no further interest or claim of whatsoever nature against the Opponent in Reference No. IT/33/97, WP/592/2017, WP/805/2018, CP/2/2016, LCC/29/96, LCC/40/98, IT/17/2004, WP/2307/2021, IT/06/2007, IT/61/2002, IT/09/2010, IT/22/2012, WP/172/2017 and other similar matters pending before various Courts in Goa as well as in any other States in India filed by the Union against the Party II Company of which Union the late Shri Suresh Naik claims to be the member and in any other matter filed by any other Union against the Opponent Company.

VII. The Applicant further states that they are the sole surviving legal heirs of late Shri Suresh Naik and undertakes to indemnify the Opponent in case any claim/dispute is raised by any other person against the Party II claiming to be the legal heir of late Shri Suresh Naik in view of matter of settlement arrived at between the Applicant and the Opponent as per the present terms of settlement agreed and signed.

VIII. Both of the Parties declare that they have no claim of whatsoever nature against each other."

(i) No order as to Cost.

(ii) Inform the Government accordingly.

Sd/-

(Anil Scaria)

Presiding Officer,
Industrial Tribunal and
Labour Court-I.

Notification

No. 28/02/2023-LAB/Part-II/193

The following Award passed by the Labour Court-II, at Panaji-Goa on 20-02-2023 in Case No. Ref.

IT/21/2021 is hereby published as required under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).
Porvorim, 8rd March, 2023.

IN THE LABOUR COURT-II
GOVERNMENT OF GOA
AT PANAJI

**(Before Shri Suresh N. Narulkar, Hon'ble
Presiding Officer)**

Case No. Ref. No. IT/21/2021

Shri Praveen Bandekar,
Rep. by its Gen. Secretary,
Gomantak Mazdoor Sangh,
Ponda-Goa Workman/Party-I.

V/s

The Proprietor,
M/s. Palmarinha Resorts
& Suites,
Porbawaddo, Calangute-Goa Employer/Party-II.

Workmen/Party I represented by Ld. Adv. Shri Puti Gaonkar.

Employer/Party II represented by Ld. Adv. Shri K.T. Sawant.

Panaji, dated: 20-02-2023.

AWARD

1. In exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa, by Order dated 22-09-2021, bearing No. 28/36/2021-LAB/468 referred the following dispute for adjudication to the Labour Court-II of Goa.

- “(1) Whether Shri Praveen Bandekar, Horticulturist, could be construed as “workman” as defined under the Industrial Disputes Act, 1947?
- (2) If answer to Issue No. (1) above is in affirmative then whether the action of management of M/s. Palmarinha Resorts and Suites, Porbawaddo, Calangute, Goa, in refusing the employment to Shri Praveen Bandekar, Horticulturist, with effect from 24-03-2020, is legal and justified?
- (3) If answer to issue No. (2) above is in negative then, what relief, the Workman is entitled to?”

2. On receipt of the reference, a Case was registered under No. LC-II/IT/21/2021 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Party put in their appearance. The Workman/Party I (for short, Workman) filed his statement of claim on 21-10-2012 at Exb. 3. The facts of the case in brief as pleaded by the Workman are that he was employed by the Employer/Party-II (for short, “Employer”) as Horticulturist since 01-06-2017 and since then he was continuously working for the Employer. He stated that though he was appointed as Horticulturist at their Hotel at Calangute, he was posted as Horticulturist at their farm at Naneli-Sattari, Goa. He stated that at the said farm, he was physically doing the work of plantation and Dairy as also the work of sowing, pruning, driving the tractor, Tata vehicle, cashew collection, milking the cows by hand and also with the machine, maintenance of farm machineries, clerical work of maintaining the records such as production records, attendance of records of labourers etc. He stated that the work of supervisory and managerial was being done by Mr. Kamalakant Phadte-Manager. He stated that he was performing work as per the instructions given to him by the Manager. He stated that neither he was having any supervisory or managerial powers, nor having the power of sanctioning leave of any workmen. He stated that as he was a workman under the Industrial Dispute Act, 1947, he was entitled for overtime wages, leave and other benefits as mentioned in his appointment letter dated 01-06-2017. He stated that he has not voluntarily abandoned his service and is ready to resume the duty any time at his place of work. He stated that on 24-03-2020, he was verbally informed via telecom by the concerned Manager Shri Kamalakant Phadte that the Employer told him that not to joined duties on account of Outbreak of Covid-19 Pandemic till 31-03-2020. He stated that on 31-03-2020, he had enquired telephonically to Mr. Kamalakant Phadte about the date of joining duty and he was told to join on 15-04-2020. He stated that on 14-04-2020, he again contacted Mr. Kamalakant Phadte as well as the Employer and asked them as to when he should join the duty. He stated that however, he was instructed not to join duty till 30-04-2020. He stated that on 24-04-2020, he has sent a message to the Employer on WhatsApp inquiring about the date of joining and his pending salary from March, 2020. He stated that however, the Employer replied that he will look into the matter and will revert back. He stated that unfortunately, the Employer did not reply. He stated that on 05-05-2020, he had sent another reminder message to the Employer on WhatsApp to get updates with respect to his pending salary and date of joining. He stated that on 06-05-2020 he

received message from the Employer stating that he should contact the Accounts Department who is the concerned person (Mr. Laxman). He stated that accordingly, he contacted Mr. Laxman and the said Laxman has asked him to contact the Employer regarding his earned wages since March, 2020 and his date of joining duty. He stated that on 07-05-2020 he was called by Employer for discussion at his Mapusa Office for detailed discussion regarding joining the duty and his pending salary. He stated that on 31-05-2020, when he called the Employer and asked him about his joining the duty to which he was informed that his service was discontinued from March, 2020.

3. He contended that before his refusal of employment of service, no charge-sheet was issued to him nor conducted inquiry and as such the principles of natural justice has not been followed. He submitted that as the Employer has not followed the provisions of law before his refusal of employment and hence action of the Employer in refusing him employment is illegal, unjustified and bad-in-law. He submitted that after refusal of employment of his services, he is unemployed and hence entitled for full back wages. The Workman, therefore, prayed to declare that he is the workman under Section 2 (s) of the Industrial Dispute Act, 1947 and that his refusal of employment is illegal, improper, unjustified and bad-in-law. The Workman further prayed that the Employer be directed to reinstate him with full back wages and continuity in service with consequential benefits thereof.

4. The Employer resisted the claim of the Workman by filing its written statement on 16-11-2021 at Exb. 4. The Employer stated that the claim of the Workman is illegal and not maintainable and does not fall within the ambit of Labour/Industrial Dispute. The Employer stated that the Party-I is not a 'workman' within the preview of the Industrial Disputes Act. The Employer stated that the Party-I had applied for the post of Farm Supervisor and was employed as supervisor being Horticulturist i.e. expert in garden cultivation and management in a supervisory capacity and was drawing wages of Rs. 15,208/- i.e. exceeding 1,600/- per month as the functions were mainly of a managerial nature. The Employer stated that the Party-I was a supervisor and used to discharge duties of supervisory and administrative nature. The Employer stated that the Party-I had power to direct and oversee the work of the subordinates which were under him who were the workmen doing physical work and the workmen were paid on daily wage basis and supervisor were paid on monthly Salary. The Employer stated that it has three divisions under the farm i.e. Dairy,

Horticulture and Vegetables. The Employer stated that Mr. Kamalakant Phadte was the Manager of the said three divisions. The Employer stated that the said Mr. Kamalakant Phadte retired on 31-05-2020. The Employer stated that the two supervisors i.e. the Party-I and Mr. Dattaprasad Nadkarni. The Employer stated that each supervisor were supervising the work allotted to them and their duty was to get the work done from the subordinate. The Employer stated that the Party-I had the power to recommend the leave of subordinate and as a supervisor, he had to examine the quality of work whether such work is performed in satisfactory manner or not. The Employer stated that Party-I was also assigned duties and distribute the work to the subordinates of the division he was supervising at the relevant time and submit the report to the Manager. The Employer submitted that as Party-I was a supervisor, present dispute does not fall under the Industrial Dispute Act and he is not liable for any relief from this Court. The Employer submitted that the nation was ordered to lock down w.e.f. 23-03-2020 and the party I voluntarily abounded the work from the said date. The Employer stated that they have never refused the employment to the Party-I and was never retrenched from work in fact the Party-I voluntarily did not report to work as such, no wages were paid to him. The Employer submitted that the Party-I has filed a false case against them and prayed that the reference be answered in negative and the petition be dismissed.

5. Thereafter, the Workman filed his Re-joinder on 17-01-2022 at Exb. 5. The Workman, by way of his Re-joinder, confirms and reiterates all his submissions, averments and statements made in his Claim Statement to be true and correct and denies all the statements, averments and submissions made by the Employer in its Written Statement, which are contrary to his Statement and averments made in his Claim Statement.

6. Based on the pleadings filed by the respective parties, this Court framed the following issues on 22-06-2022 at Exb. 6.

1. Whether the Workman/Party-I proves that he is a 'workman' as defined u/s/2(s) of the I. D. Act, 1947?
2. Whether the Workman proves that the action of the Employer in refusing him employment w.e.f. 24-03-2020 is illegal and unjustified?
3. Whether the Employer/Party-II proves that the present reference is not maintainable in view of the reasons stated in para 1, 2 and 3 of the written Statement?

4. Whether the Workman/Party-I is entitled to any relief?

5. What order? What award?

7. Thereafter, both the parties led their evidence respectively and the matter was fixed for final arguments. On 13-02-2023, Ld. Rep. Shri P. Gaonkar appearing for the Workman as well as Ld. Adv. Shri K. Sawant representing the Employer appeared before me and the matter discussed for settlement. Accordingly, on 20-02-2023 Ld. Rep. Shri P. Gaonkar along with the Workman as well as Ld. Adv. Shri K. Sawant representing the Employer and filed the application for consent award in terms of memorandum of settlement dated 20-02-2023 at Exb. 21-colly and submitted that the matter may be disposed of in terms of the settlement. The terms of settlement are reproduced hereunder:

1. The managements paid an amount of Rs. 150000/- (Rupees one lakh fifty thousand only) vide cheque bearing No. 128216 drawn on Bank of India dated 16-02-2023.
2. In view of above settlement which is full and final settlement of all the claims, the Workman shall not raise any demands against the company of whatsoever nature including the re-employment.

I have gone through the terms of settlement signed by the parties hereinabove and is of the opinion that the said terms of settlement are beneficial to both the parties. The said terms of settlement are also useful for the harmonious relation between the parties. Hence, I approved the same.

In view of above and with regards to the facts and circumstances of the present case, I proceed to pass the following order.

ORDER

- "(1) Whether Shri Praveen Bandekar, Horticulturist, could be construed as "workman" as defined under the Industrial Disputes Act, 1947, does not survive.
- (2) If answer to Issue No. (1) above is in affirmative then whether the action of management of M/s. Palmarinha Resorts and Suites, Porbawaddo, Calangute, Goa, in refusing the employment to Shri Praveen Bandekar, Horticulturist, with effect from 24-03-2020, is legal and justified, does not survive.
- (3) Inform the Government accordingly.

Sd/-

(Suresh N. Narulkar),
Presiding Officer,
Labour Court-II.

Notification

No. 28/02/2023-LAB/Part-I/213

The following Award passed by the Labour Court-II, at Panaji-Goa on 03-03-2023 in Case No. Ref. LC-II/IT/05/06 is hereby published as required under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).
Porvorim, 15th March, 2023.

IN THE LABOUR COURT-II
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Suresh N. Narulkar, Hon'ble
Presiding Officer)

Case. No. Ref. LC-II/IT/05/06

Shri Mahesh C. Naik,
H. No. MHN 272, Belabain,
Vasco-da-Gama, Goa Workman/Party-I.

V/s

M/s. Goa Shipyard Pvt. Ltd.,
Vaddem,
Vasco-da-Gama, Goa Employer/Party-II.

Workmen/Party I represented by Ld. Rep. Shri Subhash Naik George.

Employer/Party II represented by Adv. Shri M.S. Bhandodkar.

Panaji, dated: 03-03-2023.

AWARD

1. In exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa, by Order dated 24-02-2006, bearing No. 28/37/2003-LAB/130 referred the following dispute for adjudication to the Labour Court-II of Goa.

"(1) Whether the action of M/s. Goa Shipyard Pvt. Ltd., Vasco-da-Gama, Goa, in dismissing its Workman namely Shri Mahesh C. Naik, Mazdoor, with effect from 22-01-2005, is legal and justified?

(2) If not, to what relief, the Workman is entitled?"

2. On receipt of the reference, a Case was registered under No. IT/05/06 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Parties put in their appearance. The Workman/Party-I (for short 'Workman') filed his

Statement of Claim on 02-05-2006 at Exb. 4. The facts of the case, in brief as pleaded by the Workman are that there exist a union by name Shipyard Employees Union (for short, 'the said union') in the Employer establishment. He stated that the said union is the sole bargaining agent having strength of over 1,800 as its members out of 1850 Workmen. He stated that on 23-3-1996, the election of the said union was held. He stated that Shri Vincent P. Dias was elected as the President, Shri Kishore Shet, Shri Pramod Bandekar, Shri Sebastian Rebello as Vice Presidents, Shri D. Ramalingam as General Secretary, Shri Ashok Shinde, Shri Namdeo Naik as Secretaries and Shri Agnelo S. D'Souza as Treasurer of the said Union. He stated that on 05-05-1997, Shri P.V. Dias called for a Managing Committee meeting within the Employer's premises to be held on 08-05-1997. He stated that on 07-05-1997, Shri Ashok Shinde as Secretary, issued a letter to the Employer to the effect that the meeting called on 08-05-1997 was cancelled. He stated that on 09-05-1997, the entry of Shri P. Vincent Dias was barred under instructions of the management by the C.I.S.F. He stated that on 02-06-1997, 21 members of the Managing Committee requested the President in writing to convene a Managing Committee Meeting on 06-06-1997 at 16.30 hours at Kamat Canteen, A.C. Hall, Kadamba Bus Stand. He stated that on 06-06-1997, the Managing Committee met and decided to hold a General Body Meeting on 20-06-1997. He stated that on 09-06-1997 pursuant to the Managing Committee decision on 06-06-1997, show-cause notices were issued to five Managing Committee Members stating as to why they should not be dismissed from the membership of the union. He stated that on 14-06-1997, the Employer issued notice, permitting to hold the meeting on 20-6-1997 at 9.30 a.m. at Scooter Parking Shed of the Employer. He stated that the said meeting was called by Shri D. Ramalingam on whom the show-cause notice was served. He stated that on 19-06-1997 at 18.30 hours' a notice was delivered to Shri P. Vincent Dias to show-cause why his membership of the union should not be terminated. He stated that on 20-06-1997, the General Body Meeting called in the scooter parking shed could not be held due to law and order problem. He stated that on 20-06-1997, police led by Shri Thorat, the then PSI threatened to lathi charge in the event the members of the union assembled at the venue of the meeting. He stated that on 21-6-1997, 1207 members of the said union issued a notice stating that if the President failed to call the meeting, they themselves would hold a meeting on the said date and place and Shri Paul Fernandes would Chair the meeting. He

stated that on 19-7-1997 elections were held. He stated that on 19-7-1997, 1220 members voted and ratified the elections. He stated that 1319 members wrote a letter to the Registrar of Trade Union furnishing their names of the newly elected members. He stated that on 21-7-1997 Shri Damodar R. Dessai and 3 others filed a Regular Civil Suit bearing No. 37/1997 in the Civil Court at Vasco-da-Gama, alleging false statement against the office bearer of the Managing Committee of the said union, who were elected on 19-7-1997 and prayed for a declaration that the special General Body Meeting held on 10-07-1997 under the Chairmanship of Shri Paul Fernandes be declared as null and void and consequently, the election held on 19-07-1997 be set aside. He stated that the said Damodar Dessai and 3 others in the said Civil Suit further prayed for a permanent injunction restraining the defendants, or any person acting on their behalf to take over the management, control and function of the said union or obstructing physically or interfering or otherwise preventing the management, governing the affairs of the said union or interfering in the said union till the office bearer and the Managing Committee is finally elected and recognized by the competent authorities. He stated that the said Damodar Dessai and others also filed a Civil Misc. Application, bearing No. 99/1997, along with the said Civil Suit No. 37/1997. He stated that on 24-7-1997, the Managing Committee of the said union filed a regular Civil Suit No. 54/97/B and also filed a Civil Misc. Application No. 100/97 for a declaration that the meeting held under the Chairmanship of Shri Paul Fernandes and the resolutions taken therein on 10-07-1997 be held as legal, valid and subsisting. He stated that in the said Civil Suit No. 54/1997/B, they had prayed for a declaration that there was no special General Body Meeting held on 20-06-1997 and that a permanent injunction restraining the defendants, their members, servants etc. from holding a special general body meeting on 25-07-1997 at Vasco-da-Gama, Goa and also for a temporary injunction. He stated that the Civil Judge ordered that the defendants in the Regular Civil Suit No. 37/1997 are restrained from interfering with or disrupting the elections scheduled to be held on 25-07-1997, however the Plaintiff and other elected members of the factions supported by the Plaintiff shall not take charge of their respective post till the disposal of the suit or till the elections held on 19-07-1997 are declared to be illegal and void.

3. He stated that on 06-01-2001, 13 Workmen were issued letter of suspension alleging that consequent upon receipt of reports of their unlawful activities leading to rioting and violence at the court premises

of Judicial Magistrate First Class at Mangor Hill, Vasco-da-Gama on 3rd January, 1998, they are suspended from work with immediate effect, till further orders. He stated that the Employer thereafter conducted a domestic enquiry by issuing them a charge-sheet dated 12-05-1998, alleging that on 03-01-1998 he was required to be on duty, but instead of reporting for duty in concert and in combination thereof, along with other Workmen, abstained from duty, assembled at the main gate of Goa Shipyard Limited and stopped some of the Workmen from attending duty.

4. He submitted that there were no justifiable, valid and genuine reasons for the Disciplinary Authority to differ from the findings of the Enquiry Officer as the reasoning of the Enquiry Officer does not suffer from any infirmity. He submitted that the enquiry conducted against him is illegal, null and void and in violation of the principles of natural justice as well as against the Certified Standing Orders. He submitted that the Disciplinary Authority has no authority to rewrite the findings under the Certified Standing Orders. He submitted that the Disciplinary Authority being also an Appellate Authority, has deprived him rights vested in them and therefore the entire exercise of the Disciplinary Authority is illegal and unjustified. He submitted that the Disciplinary Authority re-wrote the findings without giving him any opportunity to show-cause as to whether such re-writing was permissible in law under the Certified Standing Orders. He submitted that the Disciplinary Authority has acted maliciously and perversely. He submitted that the re-writing of the findings by the Disciplinary Authority is colourable exercise of jurisdiction, an abuse of power and a fraud on the statue. The Workmen therefore prayed for setting aside the findings of the Disciplinary Authority as well as the Enquiry Authority.

5. The Employer resisted the Claim of the Workman by filing its Written Statement on 27-08-2007 at Exb. 8. The Employer, by way of preliminary objection submitted that the entire reference is bad-in-law and not maintainable as it is not a private limited company, but it is a public limited company and public sector undertaking. The Employer submitted that the State Government is not the appropriate Government. The Employer submitted that it is a Central Government's Public Sector undertaking. The Employer submitted that it is in the business of Ship building and Ship repairs for Indian Navy and Coast Guards. The Employer submitted that its business is carried out and controlled under the authority of Central

Government. The Employer submitted that it is under the administrative control of Ministry of Defense, Department of Defense Production. The Employer therefore submitted that the Appropriate Government in its case is Central Government and not Government of Goa. The Employer further submitted that the Government of Goa has no authority and/or jurisdiction to entertain and refer the present dispute.

6. The Employer stated that on 03-01-1998, the Workmen along with his co-workmen remained unauthorizedly absent from duty, without sanction of leave and/or without information and permission from the superiors. The Employer stated that the Workman along with some other workmen unauthorizedly assembled outside its main gate and illegally and unjustifiably obstructed and prohibited its workers from entering in the premises for performing their duties. The Employer stated that the Workman along with some other workmen created tense and terror in the minds of other workers, who came on 3-1-1998 at the gate to report for their duties. The Employer stated that because of fear and terror created in the minds of its workers by the Workman and some other Workmen, majority of workers including some lady workers, unwillingly, but arising out of fear and pressure by the Workman along with some other workmen went at Mangor Hill, by paralyzing the work and its functioning.

7. The Employer stated that thereafter, the Workman along with some other workmen unauthorizedly assembled outside the Court premises at Mangor Hill, Vasco-da-Gama and started shouting slogans by using filthy languages. The Employer stated that they also abused other workers, who claimed to be defendants in the said Civil Suit. The Employer stated that because of the said act of the Workman, there was disturbance for the advocates and litigants who wanted to attend the court in their respective cases. The Employer stated that some of the workers including the workers claiming to be the Plaintiffs and Defendants in the said Civil Suit were inside the court premises. The Employer stated that since the Presiding Officer was on leave, the matter was adjourned to some other date.

8. The Employer stated that having knowledge of the adjournment of the matter, the concerned Workman and some other workers became violent to such an extent that they physically assaulted, manhandled Adv. Shri Shirodkar, who was going out of the court premises. The Employer stated that the Workman along with some other workmen snatched the brief case of the said advocate and also caught

hold of his coat. The Employer stated that arising out of physical attack, Adv. Shirodkar got scared and rushed in the court premises to protect himself and filed a complaint before one of the Judicial Magistrate, who was present in the Court.

9. The Employer stated that the Workman along with some other workmen and their supporters started pelting stones not only on the other workers, who claimed to be defendants in the said Civil Suit, but also on the Court building. The Employer stated that though there were some police personnel, who witnessed that the Workman and some other workmen are becoming violent, to avoid any law and order situation, called for additional police force. The Employer stated that thereafter police inspector Mr. Thorat and Executive Magistrate of Vasco-da-Gama came at the Court premises.

10. The Employer stated that the Police personnel and the Executive Magistrate asked the workers including the Workman to vacate the court premises. The Employer stated that meanwhile, the Workman along with some other workmen instigated the mob and encouraged to become violent. The Employer stated that because of the instigation by the Workman and some other workmen, there was an unpleasant incident of pelting stones on the temple of law. The Employer stated that the Workman was directly involved in it and such an act was not acceptable from any person, much less by the workmen of any public sector undertaking. The Employer stated that because of terror and havoc created by the Workman along with some other workmen, the workmen who were in the court premises, out of fear were not ready to come down from the court premises. The Employer stated that the Executive Magistrate and Police Inspector asked those workmen to vacate the premises. The Employer stated that having regards to violent mood of the Workman and some of the workmen, the Police Inspector assured the workmen who were in the court premises that the police will escort them and they will be dropped by the police van. The Employer stated that however, the workers were not willing to come down from the court premises because of threat and terror atmosphere created by the Workman and others. The Employer stated that the Executive Magistrate and Police Inspector were compelled to give protection and forced the workmen, who were in the court premises, to vacate the court premises, and then only the workmen came down from the court premises with support and help of police. The Employer stated that however, the violent activities of the Workman along with some other workmen continued. The Employer stated that they even pelted

stones on those workmen, who were escorted by the police personnel, including police personnel, which resulted in injuries to three workmen. The Employer stated that the Workman along with some other workmen were not in a mood even to listen the Police Inspector and Executive Magistrate and continued their illegal activities. The Employer stated that the police were compelled to make a lathi charge on the workmen. The Employer stated that the Workman along with some of the workmen were even arrested by the police and charge-sheets were filed against them for their illegal and unjustified act including an act at the court premises.

11. The Employer stated that entire act of the Workman along with some other workmen that also from the public sector undertaking, were grave and serious acts of misconducts including subversive of discipline and good behavior outside the premises and such act was detrimental for smooth functioning of the establishment. The Employer stated that they therefore suspended the Workman including some other workmen, who were indulged in the illegal activities, pending enquiry and result thereof.

12. The Employer further submitted that they served the charge-sheet individually on those workmen including the Workman. The Employer stated that the Workman submitted his written explanation, however the said written explanation was not satisfactory, therefore they decided to conduct the enquiry.

13. The Employer further submitted that, initially it started individual and separate enquires of all the workmen including the Workman, who were issued the charge sheets. The Employer stated that since all the charge-sheets were arising out of the same incident and misconducts were more or less similar, it was decided to conduct a common enquiry of all fourteen workmen. The Employer stated that therefore the enquiry of the Workman was clubbed with enquiries of other workmen. The Employer submitted that some of the workmen accepted their guilt at the beginning of the enquiry itself, whereas the enquiry of the Workman continued. The Employer further stated that the Workman fully participated in the enquiry and he was represented by Adv. Mario Almeida. The Employer stated that during the enquiry, they examined three witnesses in support of the charges and they were thoroughly and in length cross-examined by the Advocate of the Workman. The Employer submitted that the evidence against the three witnesses was consistent, corroborative, and arising out of the factual events.

14. The Employer stated that the Workman examined himself besides other workmen, including independent witnesses. The Employer stated that however, they did not bring cogent evidence in their defense to justify their action and/or contrary to the evidence of the management. The Employer stated that the Enquiry Officer, while appreciating the evidence, came to the conclusion that there is sufficient evidence to prove that charges levelled against the Workman. The Employer stated that however, to the utter surprise, the Enquiry Officer held the Workman guilty of only single charge i.e. going on illegal strike or abetting, instigating or acting in furtherance the normal conduct or work of the company", and submitted his findings to the Employer. The Employer stated that the Enquiry Officer while appreciating the evidence observed and analyzed the contradiction in the defense evidence.

15. The Employer submitted that the Disciplinary Authority perused the enquiry proceedings, its connected papers and findings of the Enquiry Officer. The Employer stated that the Disciplinary Authority however, did not concur with the findings of the Enquiry Officer. The Employer stated that the Disciplinary Authority, after appreciating the enquiry proceedings and findings of the Enquiry Officer, came to a firm and definite conclusion that all the charges levelled against the Workman have been proved. The Employer stated that the Disciplinary Authority, therefore while issuing a show-cause notice dated 17-02-2004 to the Workman, also issued/enclosed his separate reasoning as to why and how the Disciplinary Authority differ with the findings of the Enquiry Officer on the remaining charges, which according to the Enquiry Officer are not proved and how the said charges are also proved against the Workman. The Employer stated that the Disciplinary Authority, while issuing the said show-cause notice, enclosed the findings of Enquiry Officer and his own findings. The Employer stated that they had given 7 days' time to the Workman to file his reply to the said show-cause notice. The Employer stated that the Workman, by his letter dated 24-02-2004 requested for extension of two months' time to file the reply to the said show-cause notice. The Employer stated that they, by its letter dated 10-03-2004 granted two months' time to file his reply. The Employer stated that the Workman filed his reply dated 08-05-2004 to the aforesaid show-cause notice of the Employer dated 17-02-2004. The Employer stated that the Workman, vide his reply dated 08-05-2004 denied the charges levelled against him and further submitted that the Disciplinary Authority has no power to differ from the findings of the Enquiry Officer.

16. The Employer stated that some of other workers concerned in the same enquiry and who had been also issued similar show-cause notices, filed writ petitions bearings No. 143 of 2004 to 150 of 2004 before the Hon'ble High Court of Bombay at Panaji Bench, challenging the validity of show-cause notice issued by the Employer. The Hon'ble Court observed that before the Disciplinary Authority differs with the view of the Enquiry Officer and proposed to come to a different conclusion, a reasonable opportunity of hearing should be granted to the workmen to show-cause against the reversal of the findings, which have been recorded in his favour by the Enquiry Officer. The Hon'ble Court further observed that the Respondent (the Employer) will be at liberty to issue a show-cause notice to the Petitioners for showing cause against the proposal of the Disciplinary Authority, taking a different view from the view taken by the Enquiry Officer.

17. The Employer stated that in view of the observations made by the Hon'ble High Court, they, by their letter dated 01-07-2004 withdrew its earlier show-cause notice and issued a fresh show-cause notice enclosing the reasoning of the Disciplinary Authority, as to why he is differing from the findings of the Enquiry Officer and asked to show-cause to indicate the reasons as to why the Disciplinary Authority should not differ from the findings of the Enquiry Officer to the extent of holding him guilty of the charges from Sr. No. 2 to 6 mentioned in the impugned charge-sheet. The Employer stated that the Workman, vide his letter dated 01-09-2004, submitted his reply to the show-cause notice dated 01-07-2004. The Employer stated that since the explanation submitted by the Workman, vide his letter dated 01-09-2004 was not satisfactory, he was issued a show-cause notice dated 10-12-2004 asking his explanation within 7 days from the receipt of the said show-cause notice. The Employer stated that the Workman, by his letter dated 20-12-2004, requested for 3 months' time to file reply to the said show-cause notice. The Employer stated that they, by its letter dated 27-12-2004, granted 15 days' time to the Workman to file his reply to the said show-cause notice. The Employer further submitted that the Workman, by his letter dated 10-01-2005 submitted his explanation to the said show-cause notice. The Employer stated that after carefully going through the said explanation of the Workman, they found that it was far from satisfactory and further observed that the points and objections raised by the Workman were not at all relevant and contrary to the facts of the case, circumstances and situation arising out of the misconducts committed by the

Workman. The Employer stated that having regards to the gravity of the charges found proved against the Workman, they by its order dated 22-1-2005, dismissed the Workman as per the provisions of the Certified Standing Orders applicable to the establishment.

18. The Employer submitted that while dismissing the Workman from the services, they did follow the procedure of law and full and fair opportunity was given to the Workman to defend his case while conducting the enquiry. The Employer submitted that the enquiry was conducted by following the principles of natural justice. The Employer submitted that the entire action on the part of the Employer is arising out of the principles of natural justice and observations made by the Hon'ble High Court. The company further submits that entire action of the Employer is within the parameter and provisions of the law and this Hon'ble Tribunal should not interfere with the bonafide decision of the Employer.

19. Without prejudice the Employer further submits that assuming without admitting if this Hon'ble Tribunal comes to the conclusion that the enquiry has not been conducted by following principles of natural justice or that the findings of the Enquiry Officer/Disciplinary Authority is/are perverse and/or bias (there is no scope/warrant to come to such conclusion), the company crave leave to lead additional evidence to justify its action of dismissal of the Workman.

20. Thereafter the Workman filed his Re-joinder on 07-07-2008 at Exb. 15. The Workman by way of his Re-joinder denied each and every statement, averments and submissions made by the Employer vide their Written Statement filed in the present proceedings and reiterates and confirms the statements, averments and submissions made by him in his statement of claim.

21. Based on the pleadings filed by the respective parties this Hon'ble Court framed the following issues on 17-11-2009 at Exb. 26.

1. Whether a fair & proper enquiry was conducted against the Workman/Party I pertaining to the alleged misconduct?
2. Whether the Workman/Party I prove that the findings submitted by the Enquiry Officer are valid and legal?
3. Whether the Workman/Party I prove that the action of the Disciplinary Authority to differ from the findings given by the Enquiry Officer is illegal null and void?

4. Whether the charges of alleged misconduct leveled against the Workman/Party-I are proved to the satisfaction of this court by acceptable evidence?
5. Whether the Workman/Party-I proves that the action of the Party-II/Employer in terminating his services w.e.f. 22-01-2005 is illegal and unjustified?
6. Whether the Employer/Party-II proves that the present Order of Reference is bad in law view of the reasons stated in Para 2 (a) & (b) of its Written Statement?
7. Whether the Party-I proves that he is entitled to any relief?
8. What Award? What Order?

22. My answers to the aforesaid issues are as under:

- a) Issue No. 1 : In the affirmative.
- b) Issue No. 2 : Partly in the affirmative and partly in the negative.
- c) Issue No. 3 : In the negative.
- d) Issue No. 4 : Partly in the affirmative and partly in the negative.
- e) Issue No. 5 : In the affirmative.
- f) Issue No. 6 : In the negative.
- g) Issue No. 7 & 8 : As per final order.

I have heard the oral arguments of the Ld. Rep. Shri Subhash Naik appearing for the Workman as well as Ld. Adv. Shri M. S. Bhandodkar representing the Employer. Both the parties also filed their synopsis of written arguments respectively. I have carefully perused the entire records of the present case. I have also carefully considered the submissions advanced before me.

REASONS:

Issue No. 1:

23. Vide order dated 09-06-2015 passed in my findings on the preliminary issue No. 1 to 4, it has been held that a fair and proper enquiry was conducted against the Workman in consonance with the principles of natural justice as well as with the provisions of the Certified Standing Orders of the Employer in respect of charge-sheet dated 12-05-1998 issued to him. The issue No. 1 is therefore answered in the affirmative.

Issue No. 2:

24. Vide order dated 09-06-2015 passed in my findings on the preliminary issue No. 1 to 4, it has been held that the Employer partly proved the charges of misconduct to the satisfaction of this court by acceptable evidence against the Workman, in respect of charge-sheet dated 12-05-1998 to the

extent of proving the charges of misconduct at Clause No. 29 (II), 29 (XI) and 29 (XII) only and the remaining charges of misconduct i.e. at Clause No. 29 (XXXII), 29 (XXXVII) and 29 (XLI) of its Certified Standing Orders, have not been proved. The Issue No. 2 is therefore answered partly in the affirmative and partly in the negative.

Issue No. 3:

25. Vide order dated 09-06-2015 passed in my findings on the preliminary Issue No. 1 to 4, it has been held that the Workman failed to prove that the action of the disciplinary authority to differ from the findings given by the Enquiry Officer is illegal, null and void. The Issue No. 3 is therefore answered in the negative.

Issue No. 4:

26. Vide order dated 09-06-2015 passed in my findings on the preliminary issue No. 1 to 4, it has been held that the Employer partly proved the charges of misconduct to the satisfaction of this court by acceptable evidence against the Workman, in respect of charge-sheet dated 12-05-1998 to the extent of proving the charges of misconduct at Clause No. 29 (II), 29 (XI) and 29 (XII) only and the remaining charges of misconduct i.e. at Clause No. 29 (XXXII), 29 (XXXVII) and 29 (XLI) of its Certified Standing Orders, have not been proved. The Issue No. 2 is therefore answered partly in the affirmative and partly in the negative.

Issue No. 5 & 7:

27. Vide order dated 09-06-2015 passed in my findings on the preliminary issue No. 1 to 4, it has been held that the Employer partly proved the charges of misconduct to the satisfaction of this court by acceptable evidence against the Workman, in respect of charge-sheet dated 12-05-1998 to the extent of proving the charges of misconduct at Clause No. 29 (II), 29 (XI) and 29 (XII) only and the remaining charges of misconduct i.e. at Clause No. 29 (XXXII), 29 (XXXVII) and 29 (XLI) of its Certified Standing Orders, have not been proved.

28. The Employer therefore decided to lead fresh evidence before this Hon'ble Court in respect of the charges of misconduct i.e. at Clause No. 29 (XXXII), 29 (XXXVII) and 29 (XLI) of its Certified Standing Orders which has not been proved before the domestic inquiry. In order to prove the aforesaid misconduct, the Employer has examined the witnesses namely, Shri Damodar Desai and Mr. Kishor Manohar Samant, the Addl. General Manager (Legal). In rebuttal, the Workman examined himself before this Hon'ble Court. All the witnesses examined by either parties, were thoroughly cross examined.

29. Though, it was necessary to prove the unproved charges by fresh and independent evidence, the Employer failed to adduce any fresh and independent evidence. The Employer however, once again examined Shri Damodar Dessai, who had examined before the Ld. Enquiry Officer and produced on record the same documents i.e. of proceedings of the enquiry complaint, dated 03-01-1998 against inhuman behaviour of supporters of Shri P. V. Dias by him and others, complaint of assault dated 03-01-1998, letter dated 06-01-1998 from the Police Inspector, Vasco Police Station, Vasco-Goa, F.I.R. dated 03-01-1998, report regarding Rioting Incident dated 07-01-1998 from Supdt. of Police to the Managing Director, G.S.L., letter dated 08-01-1998 from the Dy. Inspector General of Police, Panaji to the Managing Director, G.S.L. etc. The deposition of the said Shri Damodar Dessai is more or less the same. The said witness also could not produce the documentary evidence to establish the case in respect of unproved charges.

30. I have carefully gone through in detail, the evidence led by the Employer of Shri Damodar Desai as well as Shri Kishor Samant and on going through the same, there is no substantial evidence to prove the allegations that the workmen were restrained, detained or gheraoed by the workmen either inside or outside premises of the Employer Company. Similarly, there is no substantial acceptable evidence to prove the allegations and to prove the charge that any abusive or insulting language or any sort of threat or assault, intimidation or coercion was done by the workmen within the premises of the Employer Company, which is directly effecting the discipline or work or business of the Company. Hence, it is held that the Employer failed to prove that the charges of misconduct at Clause No. 29 (XXXII), 29 (XXXVII) and 29 (XLI) of its Certified Standing Orders.

Thus, it is held that the Employer could prove the charges of misconduct at Clause No. 29 (II), 29 (XI) and 29 (XII) of its Certified Standing Orders.

31. The Clause 29 (II) of the Model Stranding Orders states that going on illegal strike or awaiting, inciting, instigating or acting in furtherance thereon or resorting to obstruction aimed at or resulting in paralyzing the normal conduct or work of the company. Clause 29(XI) states that drunkenness, riotous, disorderly, indecent or improper behaviour on the premises of the establishment or outside the premises of the establishment if it adversely affects or is likely to affect the working or discipline of the establishment. Clause 29 (XII) states that commission of any act subversive of discipline or good behaviour on the premises or precincts of the establishment.

Thus, the charges of misconduct proved against the Workman are not serious enough to warrant the termination of services. Taking into consideration the proved charges of misconduct as well as unblemished past service record of the Workman, the punishment of dismissal imposed on him is too harsh and shockingly disproportionate especially since there is not even an allegation that the misconduct is/are habitual. Hence, it is held that the action of the Employer in terminating the services of the Workman w.e.f. 22-01-2005 is illegal and unjustified. The Issue No. 5 is therefore answered in the affirmative.

32. Now the question is with regards to the proved charges against the concerned Workman whether any relief could be granted to the concerned workmen or not.

33. Ld. Adv. Shri M. S. Bandodkar representing the Employer submitted that the Employer terminated the services of the Workman on account of loss of confidence in him and as such the Workman is not entitled for reinstatement in service. In support of his oral contention, Ld. Adv. M.S. Bandodkar relied upon a judgment of Hon'ble High Court of Delhi in the case of North Delhi, Municipal Corporation V/s. Jaswant Singh, reported in 2019 III CLR 137. In the said case, the Hon'ble High Court of Delhi, after relying upon the judgment State Bank of Travancore v/s. Prem Singh, reported in 2019 SCC. 8258 and other cases, summarized the Principles and held as under:

"31. When an employee acts in a manner by which the management loses confidence in him, his reinstatement cannot be ordered because it would neither be desirable nor expedient to continue the employee in service. It may also be detrimental to the discipline or security of the establishment. In case of loss of confidence, only compensation can be awarded.

32. The plea of "loss of confidence" by the employer has to be bonafide. Loss of confidence cannot be subjective. It has to rest on some objective facts, which would induce a reasonable apprehension in the mind of the management regarding the trustworthiness of the employee and the power has to be exercised by the employer objectively in good faith, which means honestly with due care and prudence. Otherwise, a valuable right of reinstatement to which an employee is ordinarily entitled to, on a finding that he is not guilty of any misconduct, will be irretrievably lost to the employee.

33. The bonafide opinion formed by the employer about the suitability of his employee for the job assigned to him, even though erroneous, is final and not subject to review by the industrial adjudication.

34. In case of misconduct resulting in loss of confidence, the employer is not bound to hold any inquiry to visit the employee with penal action even if such reason happens to be misconduct of the employee. The employer, in its discretion, may invoke the power to discharge simpliciter for loss of confidence while dispensing with inquiry into the conduct of the workman. The departmental inquiry in such a case is not necessary.

35. The reinstatement of an employee terminated for loss of confidence cannot be ordered even if the inquiry held by the employer has been held to be bad.

36. The reinstatement of an employee terminated for loss of confidence for involvement in a criminal case cannot be directed even if the employee is able to secure a acquittal or discharge in the criminal case.

37. The reinstatement has not been considered desirable in cases where there have been strained relationship between employer and employee. The reinstatement is also denied when an employee has been found to be guilty of subversive or prejudicial activities. The Courts have also denied reinstatement in cases where long time has lapsed or where the industry itself has become sick".

The principle laid down by the Hon'ble High Court of Delhi in its aforesaid case is applicable to the case in hand.

34. Section 11-A of the I.D. Act, 1947 empowers the Labour Court to interfere with the punishment given by the Employer. In my considered opinion, although there is a case to interfere with punishment by the Employer Company, they have lost its confidence in the Workman as the said Employer Company being a Government Company in the defense sector. In my opinion, it is not a fit case to grant reinstatement and/or back wages.

35. Having regards to the proved charges and loss of confidence on the part of the Employer Company, the ends of justice would be met through grant of some lump sum amount to the concerned Workman. Accordingly, the Employer company shall pay a sum of Rs. 5,00,000/- (Rupees five lakhs only) to the Workman. The said amount shall be paid by the Employer Company within a month from the publication of the Award, failing which it shall bears a simple interest of 9% p.a.

Issue No. 6:

36. The Employer, as and by way of its preliminary objection, submitted that it is a public limited company and public sector undertaking and that the State Government is not the appropriate Government, that it is a Central Government's Public Sector Undertaking and it is in the business of ship building and ship repairs for Indian Navy and Coast Guard, that its business is carried out and control under the authority of Central Government, that it is under the Administrative control of Ministry of Defence, Department of Defence Production. The Employer therefore submitted that the appropriate Government in its case is Central Government and not Government of Goa and that the Government of Goa has no authority and/or jurisdiction to entertain and refer the present dispute. The burden was cast upon the Employer.

37. By notification dated 03-07-1998, the Government of India, Ministry of Labour, New Delhi informed that in exercise of the powers conferred by Section 39 of the Industrial Disputes Act, 1947, the Central Government hereby directs that all the powers exercised by it under the Act and the rules made thereunder shall, in relation to all the Central Public Sector undertakings and their subsidiaries, corporation and autonomous bodies specified in schedule annexed to its notification be also exercised by the State Governments subject to the condition that the Central Government shall exercise all the powers under the said Act and Rules made thereunder as and when it considers necessary to do so. Thus, the appropriate Government under Section 39 of the Industrial Dispute Act, 1947 have been delegated to all the State Governments.

Hence, it is held that the Employer has failed to prove that the present order of reference is bad-in-law in view of the reasons stated in para 2(a) and 2(b) of its Written Statement. The Issue No. 6 is therefore answered in the negative.

In view of above, I pass the following order.

ORDER

1. It is held that the action of M/s. Goa Shipyard Private Limited, Vasco-da-Gama, Goa in dismissing its Workman namely, Shri Mahesh C. Naik, Mazdoor, with effect from 22-01-2005, is illegal and unjustified.
2. It is held that the Employer M/s. Goa Shipyard Private Limited, Vasco-da-Gama, Goa shall pay to the Workman Shri Mahesh C. Naik, a sum of

Rs. 5,00,000/- (Rupees five lakhs only) within a period of one month from the date of publication of the present Award, failing which it shall carry an interest of 9% p.a.

3. Inform the Government accordingly.

Sd/-
(Suresh N. Narulkar),
Presiding Officer,
Labour Court-II.

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Department of Law & Judiciary
Law (Establishment) Division

Order

No. 2-1-97/LD-Estt-Part-I/660

On the recommendation of the Hon'ble High Court of Bombay at Mumbai, vide their Confidential letter No. A.5504/G/2022/06 dated 09-03-2023 and as per Rule 4 of Chapter-III of the Goa Judicial Service Rules, 2013, the Governor of Goa is pleased to appoint the following 07 Judicial Officers to the post of District Judge by regular promotion in the State of Goa with immediate effect:-

Sr. No.	Name of the Judicial Officers
1.	Shri Cholu Moga Gauns.
2.	Ms. Sharmila Anant Patil.
3.	Ms. Pooja Chandrakant Kavlekar.
4.	Shri Bosco Gaudentius F. Roberts.
5.	Ms. Vijayalaxmi Rajesh Shivolkar.
6.	Shri Ram Subrai Prabhudessai.
7.	Shri Sudhir Suresh Shirgaonkar.

By order and in the name of the Governor of Goa.

Amir Y. Parab, Under Secretary (Law-Estt.).

Porvorim, 21st April, 2023.

Order

No. 2-1-97/LD-Estt-Part-I/661

On the recommendation of the Hon'ble High Court of Bombay at Mumbai, vide their Confidential letter No. A.5504/G/2022/07 dated 09-03-2023 and as per Rule 4 of Chapter-III of the Goa Judicial Service Rules, 2013, the Governor of Goa is pleased to appoint the following 02 Judicial Officers to the post of Ad-hoc District Judge under Fast Track Courts' Scheme in the State of Goa with immediate effect:-

Sr. No.	Name of the Judicial Officers
1.	Ms. Apurva Ramnath Nagvenkar.
2.	Ms. Sae Anil Prabhudessai.

By order and in the name of the Governor of Goa.

Amir Y. Parab, Under Secretary (Law-Estt.).

Porvorim, 21st April, 2023.



Office of the Collector & Returning Officer
North Goa District

Notification

No. 6-19-2023/Veterinary Council/ELN/199

In exercise of the powers conferred by Rule 10 of the Goa State Veterinary Council Rules, 1990, I, Shri Ishwar Madkaikar, Returning Officer to the election of the Goa State Veterinary Council, hereby publish the programme of election of above said council as under:-

Programme of Election	
1. Date, time and place for filing of nominations	11-05-2023 from 10.00 a.m. to 4.00 p.m. in the Office of the Collector, North Goa District, Panaji-Goa.
2. Date, time and place of scrutiny of nomination	15-05-2023 from 10.00 a.m. to 4.00 p.m. in the Office of the Collector, North Goa District, Panaji-Goa.
3. Date, time and place for withdrawal of nomination	17-05-2023 from 11.00 a.m. to 4.00 p.m. in the Office of the Collector, North Goa District, Panaji-Goa.
4. Date, time and place of poll if necessary	26-06-2023 from 11.00 a.m. to 4.00 p.m. in the Office of the Collector, North Goa District, Panaji-Goa.
5. Date, time and place of counting of votes and declaration of result	28-06-2023 from 11.00 a.m. to 4.00 p.m. in the Office of the Collector, North Goa District, Panaji-Goa.

The nomination papers and other relevant details shall be obtained from the office of the Returning Officer for Goa State Veterinary Council, Collectorate Building, North Goa District, Panaji-Goa.

Ishwar M. Madkaikar, Returning Officer for the Goa State Veterinary Council.

Panaji, 26th April, 2023.



Department of Personnel

Order

No. 7/27/2022-PER/1097

The Governor of Goa is pleased to appoint Shri Prasad Lolayekar, IAS (AGMUT:2014) as Secretary to Government, with immediate effect.

By order and in the name of the Governor of Goa.

Eshant V. Sawant, Under Secretary (Personnel-I).

Porvorim, 18th April, 2023.

Order

No. 7/17/2022-PER/1101

Shri Prasad Lolayekar, IAS (AGMUT:2014), Secretary (Education) shall hold additional charge of Director (Higher Education), with immediate effect.

Shri Polumatla P. Abhishek, IAS (AGMUT:2017) is appointed as OSD (Tourism), in addition to his own duties, with immediate effect till 31-05-2023.

Smt. Sneha Gitte, IAS (AGMUT:2019), Director (Environment) shall hold the additional charge of Director (Vigilance), in addition to her own duties, with immediate effect.

By order and in the name of the Governor of Goa.

Eshant V. Sawant, Under Secretary (Personnel-I).

Porvorim, 18th April, 2023.

Order

No. 6/8/2022-PER/1102

On the recommendation of the Goa Services Board, the Governor of Goa is pleased to transfer and post Shri Amarsen W. Rane, Director of Vigilance as Director of Civil Aviation, in public interest, with immediate effect.

Shri Harish N. Adconkar, Managing Director, GSIDC shall hold the charge of Director (PPP), in addition to his own duties.

The officers shall complete handing over and taking over process with immediate effect and submit compliance.

By order and in the name of the Governor of Goa.

Eshant V. Sawant, Under Secretary (Personnel-I).
Porvorim, 18th April, 2023.

Order

No. 13/02/2023-PER/1104

Whereas, Government vide Order No. 13/02/2023-PER/269 dated 31-01-2023 had granted extension in service to Shri Uttam Parsekar, Principal Chief Engineer, Public Works Department beyond the date of his superannuation for a period of one year w.e.f. 01-02-2023 to 31-01-2024, in public interest, subject to Vigilance clearance, concurrence of Finance Department and approval of Council of Ministers;

And whereas, the Vigilance Department has submitted Vigilance Clearance stating that, no Disciplinary proceedings/Vigilance cases are pending or being contemplated against Shri Uttam Parsekar;

And whereas, the Finance Department vide its U.O. No. 1400091736 dated 25-03-2023 concurred the proposal for grant of extension in service to Shri Uttam Parsekar, Principal Chief Engineer, Public Works Department subject to Cabinet approval and adherence of all Rules in force;

And whereas, the Council of Ministers in its XXIIInd meeting held on 06-04-2023 resolved to grant ex-post facto approval for extension in service to Shri Uttam Parsekar, Principal Chief Engineer, Public Works Department beyond the date of his superannuation for a period of one year w.e.f. 01-02-2023 to 31-01-2024 in public interest;

Now, therefore, the Government is pleased to confirm the Order No. 13/02/2023-PER/269 dated 31-01-2023 granting extension in service to Shri Uttam Parsekar, Principal Chief Engineer, Public Works Department beyond the date of his superannuation for a period of one year w.e.f. 01-02-2023 to 31-01-2024 in public interest.

By order and in the name of the Governor of Goa.

Nathine S. Araujo, Under Secretary (Personnel-II).
Porvorim, 18th April, 2023.

Order

No. 4/5/2012-PER/1118

Government is pleased to post Shri Praveen R. Volvotkar, Joint Director, Department of Information Technology, Electronics and Communication as Managing Director of Info Tech Corporation of Goa Ltd. with immediate effect.

Shri Praveen R. Volvotkar shall be governed by standard terms of deputation as amended from time to time.

Shri Praveen R. Volvotkar shall continue to hold the charge of Joint Director (IT) in addition to above.

By order and in the name of the Governor of Goa.

Nathine S. Araujo, Under Secretary (Personnel-II).
Porvorim, 19th April, 2023.

Order

7/1/2023-PER/1173

On the recommendation of the Goa Public Service Commission conveyed vide their letter No. COM/I/5/79(1)/2022/475 dated 31-01-2023, the Government of Goa is pleased to appoint Shri Vasu Madhu Usapkar, as Director of Museum (Group "A" Gazetted) (Goa General Service) in the Directorate of Museum, Panaji on temporary basis in the Level-11 of C.C.S. (Revised Pay) Rules, 2016 with effect from date of joining.

Shri Vasu Madhu Usapkar shall be on probation for a period of two years.

Shri Vasu Madhu Usapkar has been medically examined by the Medical Board and his character and antecedents have been verified at the time of appointment as Archivist (Management), Group "B" Gazetted in the Directorate of Archives and Archaeology.

By order and in the name of the Governor of Goa.

Nathine S. Araujo, Under Secretary (Personnel-II).
Porvorim, 21st April, 2023.

Notification

No. 7/17/2022-PER/1100

- Read: 1. Notification No. 7/17/2022-PER/4036 dated 05-12-2022.
2. Notification No. 7/27/2022-PER/781 dated 21-03-2023.

3. Order No. 7/27/2022-PER/1097 dated 18-04-2023.

In partial modification to the Notifications read in the preamble, the Governor of Goa is pleased to order allocation of work/Departments amongst the following Secretaries to the Government, with immediate effect:-

Sr. No.	Name & Designation	Departments/Additional Charges
1	2	3
1.	Dr. Puneet Kumar Goel, IAS (1991) Chief Secretary	1. Vigilance/Chief Vigilance Officer. 2. Home. 3. Personnel & ARD. 4. PWD. 5. Civil Aviation. 6. Pr. Secretary, Mines and Geology. 7. Forest. 8. Town & Country Planning.
2.	Shri Subhash Chandra, IAS (2009) Secretary (Water Resources)	1. Water Resources. 2. Social Welfare. 3. Provedoria. 4. Information & Publicity. 5. Transport. 6. Legal Metrology.

1	2	3
3.	Shri Sarpreet Singh Gill, IAS (2009) Secretary (Tribal Welfare)	1. Tribal Welfare. 2. Animal Husbandry & Veterinary Services. 3. Fisheries. 4. Public Grievances. 5. Official Language. 6. Commissioner, State Taxes.
4.	Shri Arun Kumar Mishra, IAS (2012) Secretary (Environment)	1. Environment. 2. Health. 3. Women & Child Development. 4. Agriculture.
5.	Shri Ajit Roy, IAS (2013) Secretary to Chief Minister	1. Secretary to Chief Minister. 2. Power. 3. New & Renewable Energy. 4. Mines & Geology.
6.	Shri Prasad Lolayekar, IAS (2014) Secretary (Education)	1. Education. 2. Skill Development & Entrepreneurship.

By order and in the name of the Governor of Goa.

Eshant V. Sawant, Under Secretary (Personnel-I).
Porvorim, 18th April, 2023.

Department of Planning

Directorate of Planning, Statistics & Evaluation

Order

No. DPSE/I/ADMN/Trans-CSC-Gazetted/2022-23/126

Government is pleased to order the transfer and posting of the following Officers of the Common Statistical Cadre with immediate effect.

Sr. No.	Name of the Officer & Designation	Present place of posting	Department/Office to which transferred
1	2	3	4
1.	Shri Francis V. D'Souza, Research Assistant	Directorate of Civil Supplies & Consumer Affairs, Panaji-Goa	Directorate of Women & Child Development, Panaji-Goa, against the vacant post of Smt. Sunita B. Bhagat, Research Assistant, transferred.
2.	Smt. Sunita B. Bhagat, Research Assistant	Directorate of Women & Child Development, Panaji-Goa	Directorate of Civil Supplies & Consumer Affairs, Panaji-Goa, against the vacant post of Shri Francis V. D'Souza Research Assistant, transferred.

A copy of joining report be submitted in this Directorate for records.

This issues with the approval of the Government vide U. O. No. 530 dated 18-04-2023.

By order and in the name of the Governor of Goa.

Vijay B. Saxena, Director and ex officio Jt. Secretary (Planning).

Porvorim, 18th April, 2023.

Department of Public Health

Order

No. 6/1/2006-III/PHD/(Part-I)/552

On the recommendation of Goa Public Service Commission conveyed vide their letter No. COM/II/12/35(1)/2022/523 dated 20-03-2023, the Government is pleased to declare Shri Sudesh Nanda Gaude, Assistant Professor in Psychiatric Social Work in the Institute of Psychiatry and Human Behaviour, Bambolim as having satisfactorily completed his probation period of two years w.e.f. 19-08-2019 to 18-08-2021 and to confirm him in the post of Assistant Professor in Psychiatric Social Work in the Institute of Psychiatry and Human Behaviour, Bambolim, with effect from the date of completion of his probation period.

By order and in the name of the Governor of Goa.

Trupti B. Manerkar, Under Secretary (Health-I).

Porvorim, 18th April, 2023.

Order

No. 47/60/2011-I/PHD/Part-I/558

Read: Memorandum No. 47/60/2011-I/PHD/1450 dated 18-11-2022.

Corrigendum No. 47/60/2011-I/PHD/1546 dated 08-12-2022.

On the recommendation of the Goa Public Service Commission as conveyed vide letter No. COM/I/5/24(9)/2021/300 dated 19-10-2022, Government is pleased to appoint Ms. Luana Agnes Mascarenhas to the post of Dietician (Group 'B' Non Gazetted) under the Directorate of Health Services in the Level-6 Pay Matrix [PB: Rs. 9300+34800/- +Grade Pay 4200/- (pre-revised)].

Ms. Luana Agnes Mascarenhas shall be on probation for a period of two years.

Ms. Luana Agnes Mascarenhas has been declared medically fit by the Medical Board, and character and antecedents has been verified by the Additional Collector and ADM, North Goa and there is nothing adverse reported against Ms. Mascarenhas.

Ms. Luana Agnes Mascarenhas is posted at Community Health Centre, Pernem-Goa.

By order and in the name of the Governor of Goa.

Trupti Manerkar, Under Secretary (Health-II) (Link).

Porvorim, 19th April, 2023.

Department of Revenue

Order

No. 26/11/2015-RD/490

The Government of Goa is pleased to transfer the following Officers, in the public interest with immediate effect.

Sr. No.	Name of the Officer	Present posting	New place of posting
1	2	3	4
1.	Shri Patrick Gonsalves, ISLR	Inspector of Survey & Land Records, Salcete	Inspector of Survey & Land Records, Mapusa.
2.	Shri Rajesh Kuchelkar, ISLR	Inspector of Survey & Land Records, Mapusa	Inspector of Survey & Land Records, Ponda.
3.	Shri Anand Vaigankar, ISLR	Inspector of Survey & Land Records, Ponda	Inspector of Survey & Land Records, Vasco.

1	2	3	4
4.	Shri Savio Silveira, ISLR	Inspector of Survey & Land Records, Vasco	Inspector of Survey & Land Records, Dharbandora.

Shri Chetan Jadhav, ISLR, Margao (City Survey) shall hold additional charge of ISLR, Salcete, in addition to his own duties.

By order and in the name of the Governor of Goa.

Durga Kinlekar, Under Secretary (Revenue-I).

Porvorim, 18th April, 2023.

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Department of Sports and Youth Affairs
Directorate of Sports and Youth Affairs

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Order

No. 10/promotion/Officiating/AD/DSYA/ADM//2023/205

Sanction of the Government is hereby conveyed for officiating promotion/charge of Asstt. Director (Sports) to the senior most APEO of this Directorate of Sports & Youth Affairs.

Shri John Fernandes, Asstt. Physical Education Officer shall hold the officiating promotion/charge of Asstt. Director (Sports) with immediate effect until further orders.

By order and in the name of the Governor of Goa.

Rohit Kadam, Director (Sports & Youth Affairs) & Joint Secretary (ex officio).

Panaji, 20th April, 2023.

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